

Steven Ramsey v. Jay Cashman, Inc.
Deposition of ARTHUR C. SARGENT - March 16, 2006

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UNITED STATES DISTRICT COURT
Civil Action No. 04-CV-10699 (RCL)

STEVEN RAMSEY

Plaintiff,

v.
JAY CASHMAN, INC.

Defendant.

DEPOSITION of ARTHUR C. SARGENT, taken pursuant to the Massachusetts Rules of Civil Procedure, before Elizabeth A. Hayes, a Professional Court Reporter and Notary Public in and for the Commonwealth of Massachusetts, held at the law offices of Holbrook & Murphy, 15 Broad Street, Boston, Massachusetts on Thursday, March 16, 2006, commencing at 9:15 a.m.

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GENERAL & TECHNICAL COURT REPORTING

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S T I P U L A T I O N S

It is hereby stipulated and agreed by and between counsel for the respective parties that all objections, except as to form, and motions to strike will be reserved until the time of trial or pre-trial hearing.

It is further agreed that the witness will read and sign the deposition transcript, under the pains and penalties of perjury, within 30 days of receipt of the deposition transcript; otherwise the deposition transcript will be deemed signed.

ARTHUR C. SARGENT, first having been satisfactorily identified by the production of his driver's license, and duly sworn, testifies as follows:

(Exhibit No. 1, Fax cover sheet; report dated 2/15/05; fax transaction report; two-page C.V.; and eight pages of appendices,

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1 Q. So that would be implicated when you're
 2 starting the motor?
 3 A. Yes.
 4 Q. And how about the voltage regulator, what
 5 does that do?
 6 A. Similar to what you have onboard an
 7 automobile, to when you're charging your
 8 battery, it keeps the charge to the
 9 battery at a constant voltage. Rather
 10 than just going up to extreme high
 11 levels, it keeps it at a reasonable level
 12 to charge your battery.
 13 Q. The switch boxes, what does that do?
 14 A. That's just an on and off switch
 15 someplace on the motor.
 16 Q. And the starter solenoid, what does that
 17 do?
 18 A. When you push something, it will then
 19 activate the starter motor.
 20 Q. Okay. Now, what evidence, or what
 21 support do you have for the idea that any
 22 of those issues caused the vessel to
 23 stall, caused the motor to stall?
 24 A. They're all electrical parts. The

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1 position?
 2 A. Nope.
 3 Q. So, that's just a --
 4 A. Right.
 5 Q. -- guess on your part?
 6 A. No, not a guess. Remember, the vessel
 7 got under water, and I guess the rain --
 8 and it sotted out.
 9 Q. Uh-huh.
 10 A. And it was taken over to Hoffstrasser --
 11 or Hochstrasser -- to make certain it's
 12 put in the proper operating condition.
 13 And someone decided to do it, as far as I
 14 can see, on the cheap. And when I say,
 15 "on the cheap," not do a couple of items
 16 here, and changing out the electrical end
 17 of it.
 18 When you have something dunked in
 19 salt water, normally you change out
 20 everything to do with the electrical.
 21 Q. And why is that?
 22 A. The electrical can short out. It's
 23 damaged, rusted, corroded. It's just
 24 general good practice, marine practice,

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1 voltage regulator -- if the voltage drops
 2 for any reason or other, you don't get
 3 the voltage to the sparkplug, and it'll
 4 stall on you.
 5 Q. Do you know whether that happened in this
 6 case?
 7 A. I have no idea.
 8 Q. One way or another?
 9 A. Have no idea. I did not see the motor in
 10 the condition it was after it left
 11 Hochstrasser before the casualty
 12 occurred, before it was dumped the second
 13 time, or the third time, to make some
 14 determination. But, without that, you
 15 can't do it.
 16 I would assume that these people
 17 -- I say, "these people" -- the
 18 Hochstrasser mechanic, tested out these
 19 parts and said, "This is no good, we
 20 should change it," or, "This is no good,
 21 we should change it."
 22 Q. You haven't spoken to anyone from there?
 23 A. No, I have not spoken --
 24 Q. Has anyone informed you of their

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1 when you dunk something, to submerge it
 2 in salt water, to replace it immediately
 3 thereafter, if you want to go back in
 4 operation with it. That's the general
 5 practice, and not to try to see, "Well,
 6 can we get by this, or not?"
 7 The cost of replacing this was
 8 nominal, as I remember. In this
 9 particular case, they decided not to do
 10 it. And it's quite clear what they
 11 indicated, "stator, voltage regulator,
 12 switch boxes, starter solenoid were not
 13 changed." -- and we had that underlined,
 14 were not changed -- "Advise doing so
 15 since it sank in salt water."
 16 So here's a marina that does
 17 repairs on engines saying, "Look, this
 18 thing sank in salt water; you'd better do
 19 something about it." And someone decided
 20 not to do it.
 21 Q. Do you know how long it would take to
 22 effect those repairs, typically?
 23 A. I would think they'd be able to get those
 24 repairs done in a week. I mean, it's a

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1 Mercury outboard. It's a common outboard
 2 motor. Someone must be a distributor of
 3 an outboard. And I guess if you pushed
 4 these fellows to do it, you could get it
 5 done in a couple of days. But, certainly
 6 no more than a week.
 7 Q. And do you have an idea of what the cost
 8 would be for those kind of repairs?
 9 A. I think someone basically did the same
 10 repairs, or was telling about the same
 11 repairs. Here it is, "A harness, relay,
 12 solenoid." It looks like about \$120
 13 worth. And it would be about the same
 14 thing here, \$120 worth. So, really it
 15 should only have been \$120 more than
 16 \$350.
 17 So, it would add up to less than
 18 \$500 for the entire change-out of
 19 everything on this engine to make it as
 20 -- I wouldn't say it's as good as new --
 21 but, as good as it was before, and
 22 suitable to operate.
 23 Q. Let me ask you this. Let's just assume
 24 hypothetically, you'd been called in the

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1 easily.
 2 Q. I see. And all these pieces wear out on
 3 their own at some point regardless of
 4 whether they're emerged in salt water?
 5 A. Perhaps; perhaps.
 6 Q. Nothing lasts forever.
 7 A. Right, most things don't. I can't think
 8 of very much.
 9 Q. And let me ask you, if something had
 10 shorted out, would there be telltale
 11 signs that this was an electrical
 12 problem?
 13 A. If something kept shorting out, you could
 14 always send it back to Hochstrasser and
 15 say, "Figure out what's happening."
 16 Q. No, I mean after the fact. Is there a
 17 way you could have looked at that motor,
 18 and there'd be telltale signs that there
 19 was an electrical problem?
 20 A. Yeah. You'd find corrosion someplace.
 21 You could pull each part, that is, each
 22 piece apart, and test it individually. I
 23 don't know where this would get you,
 24 though, because we had a second dunking,

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1 day this happened. You'd go look at the
 2 boat, I take it, and look at the motor?
 3 A. Uh-huh.
 4 Q. And what would you be looking for? What
 5 would you do?
 6 A. Oh, I'd just -- when you say, "I'm
 7 looking at it," as what, sort of an
 8 owner, or --
 9 Q. Let's say I called you up and said, "Hey,
 10 I represent Cashman," or Mr. Rosenthal
 11 called you up and said, "I represent
 12 Steve Ramsey, and we've had a problem
 13 with this boat, and we want you to go
 14 look at it and tell us what you think,"
 15 what would the drill be?
 16 A. I'd check out all of these pieces and
 17 find out whether they were bad, at that
 18 point. But, I wouldn't know whether they
 19 were bad because of a condition that
 20 preexisted, or this time in the salt
 21 water. So, probably I couldn't do very
 22 much with it. It's been damaged a second
 23 time, and we cannot separate out the
 24 damage before from the damage after, very

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1 a second emersion; whether you could
 2 figure out that it had to do with the
 3 first emersion or the second emersion. I
 4 don't know whether you could find that
 5 out.
 6 Let's assume the first time you
 7 did everything perfectly. You did
 8 exactly what Hochstrasser told us to do.
 9 You changed everything. And then we had
 10 a second dunking, the same pieces
 11 probably would be required to be changed
 12 out. You'd go through the same drill the
 13 second time, because we had a second
 14 sinking. So, you change out everything
 15 the second time.
 16 Q. Okay. Let me ask you this -- I know
 17 you've read Mr. Ramsey's testimony. The
 18 boat stalled out on him as he returned to
 19 the barge; did you understand that?
 20 A. Yes.
 21 Q. And then you understand that he worked on
 22 the boat a little bit?
 23 A. Yes. Worked on the boat a little, --
 24 Q. Worked on the motor.

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1 A. Tried to get it started, yes.
 2 Q. Yeah, what do you understand that he did?
 3 A. I don't know. He was there working on
 4 it. What he actually did, I don't know.
 5 Q. Okay, but at some point he got it started
 6 up again?
 7 A. He got it started up again.
 8 Q. Does that lead you to believe one way or
 9 the other that it's more likely or less
 10 likely that the problem was electrical?
 11 A. I don't know what to make of it, because
 12 I don't know what he did.
 13 Q. Well, if something shorts out, would you
 14 be able to start it up again?
 15 A. Jiggle a wire, perhaps. I don't know
 16 what he did.
 17 Q. How likely would that be?
 18 A. I don't know what he did, whether that
 19 was the problem or not.
 20 Q. What I'm trying to --
 21 A. I don't know what the problem is. I
 22 can't answer your question.
 23 Q. Okay, let me just ask it in a general
 24 sense, then. If an outboard motor stalls

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1 explanation -- you have a flashlight that
 2 doesn't really work -- I've got it, a
 3 television clicker, changing channels.
 4 It has a couple of batteries in it. And
 5 all of a sudden you can't change the
 6 channel; it doesn't work. You open it up
 7 and you rub the batteries, the end of the
 8 batteries; put them back in. And low and
 9 behold, like magic, it works again. What
 10 have you done? You've changed some
 11 resistant values, or jiggling a wire,
 12 maybe is a better way of saying it.
 13 But, basically you put back the
 14 batteries and you can change the
 15 channels. I assume everyone has done
 16 this at some time or other.
 17 Q. Sure.
 18 A. And that's the same thing I'm talking
 19 about here. He gets in and pushes around
 20 something. And low and behold --
 21 Q. But, would you be able to do that with a
 22 -- okay, and I understand --
 23 A. I don't know. I really don't know what
 24 could have been done. And that's why I

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1 out because of an electrical problem, how
 2 likely is it that the motor would then --
 3 you'd be able to get it going again?
 4 MR. ROSENTHAL: Objection to
 5 form.
 6 A. If you change out the electrical problem,
 7 it'll fix the --
 8 Q. No, no, I don't mean that. I mean, I'm
 9 driving my outboard motor back to the
 10 barge and it stalls out. I drift back to
 11 the barge, and then 5 or 10 minutes later
 12 I get the motor going again. How likely
 13 is that if it was an electrical problem?
 14 MR. ROSENTHAL: Objection to
 15 form.
 16 A. I don't know. I can't answer the
 17 question.
 18 Q. What's the problem with the question?
 19 I'm looking for your answer on this.
 20 A. Yeah, I don't really -- he can jiggle
 21 something, and all of a sudden it makes
 22 good contact again.
 23 Q. Would that be for a loose wire?
 24 A. Possibly. I'm thinking the easiest

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1 say I can't answer the question. All I
 2 can say is, by analogy, indeed, there are
 3 conditions I can think of where you just
 4 jiggle something, or make better contact,
 5 and low and behold it works like magic.
 6 And whether it's the same thing
 7 here, if there was, in fact, a loose wire
 8 and does something, he pushed the button
 9 again, and it starts, I don't know what
 10 to make of it.
 11 But, we also have a different
 12 condition here. We have something where
 13 it's not going into reverse.
 14 Q. What's that indicative of?
 15 A. I don't know. I don't know the problem
 16 with it.
 17 Q. Okay.
 18 A. I have no idea what the problem is, but
 19 they indicated it could not go in
 20 reverse, or when they tried going in
 21 reverse it would stall on them.
 22 Q. Okay.
 23 A. And I'd like to believe that these
 24 fellows could evaluate and investigate

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1 that sort of problem and find out what it
 2 was. It was never done.
 3 Q. Could you define for me generally, just
 4 so we get a starting off point, what a
 5 short circuit is? I think you used the
 6 term, right?
 7 A. Yeah, where something, a live wire goes
 8 to ground.
 9 Q. And what happens?
 10 A. You get a spark, or you run down your
 11 battery, or the thing just doesn't work
 12 because you have an open circuit.
 13 Q. Okay. And just to go back to your
 14 analogy with the clicker from the TV, if
 15 you had a short circuit, you wouldn't be
 16 able to --
 17 A. Oh, no, nothing would happen.
 18 Q. It'd be fried; you'd be out of luck.
 19 A. Well, I don't know whether you'd be out
 20 of luck or fried, but your batteries
 21 might run down if you have a short
 22 circuit.
 23 Q. So if the vessel -- if the motor, rather
 24 -- stalled out because of a short

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1 run out of gasoline in your car and it
 2 stalls.
 3 Q. Or you could have a problem with the fuel
 4 line and it would stall?
 5 A. Fuel pump, yes.
 6 Q. My idea of equipment is a fork, okay?
 7 That's my idea of machinery that I use.
 8 Obviously, this sounds obvious, but if
 9 the engine isn't getting fuel, it's going
 10 to stall out?
 11 A. Correct.
 12 Q. And that's if you don't put fuel in it?
 13 A. Correct.
 14 Q. If the fuel is somehow blocked from
 15 getting to the engine?
 16 A. Correct. You have a fuel filter. A fuel
 17 filter -- even an automobile has a fuel
 18 filter. Or, generally on a diesel
 19 engine, if the fuel filters are not
 20 changed, the engine will stop.
 21 If you get a clog in the line,
 22 the engine will stop. You run out of
 23 fuel, engines will stop. There are lots
 24 of reasons engines will stop. However,

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1 circuit, you wouldn't be able to get it
 2 going five minutes later, would you?
 3 A. Unless you pulled the wire away from
 4 where it shorted.
 5 Q. Save that, you wouldn't be able to get it
 6 going, right?
 7 A. No, it should not. If it shorts, it's
 8 going to stay that way.
 9 Q. So, not to beat this over the head, you
 10 don't know one way or the other whether
 11 there was an electronic problem that
 12 caused the skiff to stall?
 13 A. Electric or electronic, no.
 14 Q. And I've heard people say, and I think
 15 maybe Mr. Ramsey said it, but I'm not
 16 positive so I won't -- that he thought
 17 the engine needed air?
 18 A. No, I think he said it needed fuel. He
 19 squeezed the bulb.
 20 Q. Thanks. Okay, I didn't --
 21 A. And squeezing the bulb would force
 22 gasoline into the engine.
 23 Q. And an engine will stall, and --
 24 A. If you don't get any fuel to it. You can

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1 this one was doing it on a continual
 2 basis. We're not talking about just this
 3 one time. It was doing that days before,
 4 according to Mr. King.
 5 Q. Yeah, Mr. King's testimony was you kind
 6 of had to gun it or something. Didn't he
 7 say that?
 8 A. He indicated in order to change into
 9 reverse, you had to make certain that you
 10 kept the engine up to speed, as I
 11 remember feeling. You say, "gun it."
 12 All of this is indicative of an engine
 13 that's not in good repair. Something's
 14 wrong with it. It should have been taken
 15 out of service and repaired.
 16 Q. Okay. I just want to focus on this a
 17 little more then. If the idea of fuel
 18 needs to get to the engine to keep it
 19 running, that's separate from the
 20 electrical.
 21 A. Absolutely.
 22 Q. They're two different things.
 23 A. Surely.
 24 Q. So, if you've got a -- I think when I was